

**BOARD OF APPEALS
for
MONTGOMERY COUNTY**

Stella B. Werner Council Office Building
100 Maryland Avenue
Rockville, Maryland 20850

www.montgomerycountymd.gov/content/council/boa/index.asp

(240) 777-6600

Case No. S-2763

PETITION OF JOHN AND INESSA LOVE

OPINION OF THE BOARD

(Opinion Adopted March 17, 2010)

(Effective Date of Opinion: April 5, 2010)

Case NO. S-2763 is an application for a special exception, pursuant to Section 59-G-2.00 of the Zoning Ordinance, to permit an accessory apartment. The Hearing Examiner for Montgomery County held a hearing on the application on February 18, 2010, closed the record on March 1, 2010, and on March 3, 2010 issued a Report and Recommendation for approval of the special exception.

The subject property is Lot 15, Block 12, Pine Crest Subdivision, located at 6510 Allegheny Avenue, Takoma Park, Maryland 20912 in the R-60 Zone.

Decision of the Board: Special Exception **Granted** Subject to
The Conditions Enumerated Below.

The Board of Appeals considered the Hearing Examiner's Report at its Worksession on March 17, 2010. After careful consideration and review of the record in the case, the Board adopts the Report and Recommendation and grants the special exception subject to the following conditions:

1. The Petitioners are bound by their testimony, representations and exhibits of record to the extent that such testimony and evidence are identified in the Hearing Examiner's Report and in the Board's Opinion;
2. The Petitioners must make the repairs needed to comply with the conditions set forth in the Memorandum of Robert Goff, Housing Code Inspector, Division of Housing and Code Enforcement (Exhibit 12):

- a. Install stove/range
 - b. Install refrigerator
-
- 3. Based on habitable space in the apartment (477.6 square feet), no more than three family members or two unrelated persons may reside in the accessory apartment;
 - 4. Petitioners must occupy one of the dwelling units on the lot on which the accessory apartment is located;
 - 5. Petitioners must not receive compensation for the occupancy of more than one dwelling unit;
 - 6. Petitioners must restrict the accessory apartment tenant to keeping no more than one vehicle in the general neighborhood, given the availability of only one off-street parking space at the site; and
 - 7. Petitioners must obtain and satisfy the requirements of all licenses and permits, including but not limited to building permits and use and occupancy permits, necessary to occupy the special exception premises and operate the special exception as granted herein. Petitioners shall at all times ensure that the special exception use and premises comply with all applicable codes (including but not limited to building, life safety and handicapped accessibility requirements), regulations, directives and other governmental requirements.

On a motion by Carolyn J. Shawaker, seconded by Stanley B. Boyd, with Walter S. Booth, David K. Perdue, Vice-Chair, and Catherine G. Titus, Chair, in agreement, the Board adopted the following Resolution:

BE IT RESOLVED by the Board of Appeals for Montgomery County, Maryland that the opinion stated above is adopted as the Resolution required by law as its decision on the above-entitled petition.

Catherine G. Titus
Chair, Montgomery County Board of Appeals

Entered in the Opinion Book
of the Board of Appeals for
Montgomery County, Maryland
this 5th of April 2010.

Katherine Freeman
Executive Director

NOTE:

Any request for rehearing or reconsideration must be filed within fifteen (15) days after the date the Opinion is mailed and entered in the Opinion Book (See Section 59-A-4.63 of the County Code). Please see the Board's Rules of Procedure for specific instructions for requesting reconsideration.

Any decision by the County Board of Appeals may, within thirty (30) days after the decision is rendered, be appealed by any person aggrieved by the decision of the Board and a party to the proceeding before it, to the Circuit Court for Montgomery County, in accordance with the Maryland Rules of Procedure. It is each party's responsibility to participate in the Circuit Court action to protect their respective interests. In short, as a party you have a right to protect your interests in this matter by participating in the Circuit Court proceedings, and this right is unaffected by any participation by the County.

See Section 59-A-4.53 of the Zoning Ordinance regarding the twenty-four months' period within which the special exception granted by the Board must be exercised.